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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,477	02/06/2004	Yoshio Sasaki	09812.0399-00000	7046

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER  
LLP  
901 NEW YORK AVENUE, NW  
WASHINGTON, DC 20001-4413

EXAMINER
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SWERDLOW, DANIEL

ART UNIT	PAPER NUMBER
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2615

MAIL DATE	DELIVERY MODE
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06/26/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/773,477	<b>Applicant(s)</b> SASAKI, YOSHIO	
	<b>Examiner</b> Daniel Swerdlow	<b>Art Unit</b> 2615	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 February 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some    \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 14 through 16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Since a computer program is merely a set of instructions capable of being executed by a computer, the computer program itself, without the computer-readable medium needed to realize the computer program's functionality, constitutes nonstatutory functional descriptive material.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1 through 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Regarding Claim 1, the phrases "playback unit specification means", "music file group selection means" and "playback means" invoke the sixth paragraph of 35 U.S.C. 112 and require limitation of the claim to the corresponding structure recited in the specification or its equivalent. However, because the specification fails to identify structures corresponding to the means claimed, the claim is indefinite.

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6. Claims 2 through 7 incorporate by dependence the indefinite recitations of Claim 1.
7. Claim 4 further recites the limitation “selected area specification means” for which there is no corresponding structure identified in the specification.
8. Regarding Claim 8, the phrases “album selection means” and “playback means” invoke the sixth paragraph of 35 U.S.C. 112 and require limitation of the claim to the corresponding structure recited in the specification or its equivalent. However, because the specification fails to identify structures corresponding to the means claimed, the claim is indefinite.
9. Regarding Claim 9, the phrases “folder selection means” and “playback means” invoke the sixth paragraph of 35 U.S.C. 112 and require the limitation of the claim to the corresponding structure recited in the specification or its equivalent. However, because the specification fails to identify structures corresponding to the means claimed, the claim is indefinite.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1, 4, 6 through 8, 10 through 12, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson et al. (US Patent 5,798,921).
12. Regarding Claim 1, Johnson discloses an audio storage/reproduction system (Fig. 10) comprising: cartridge racks 60a-c that correspond to the sound source claimed and store songs (i.e., a plurality of music files) in a rack-cartridge-album-song hierarchy (column 5, lines 48-52;

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column 6, lines 36-42); system control (Figs. 13, 16) for allowing to user to play the entire selection 151, a particular album 152, a particular artist 154, a specified category 155, a particular song 212, a list of songs 216 (column 9, lines 26-40; column 10, lines 15-23) (i.e., specify a unit for a group of songs for reproduction); control for random selection of an album (Fig. 13, reference 220; column 10, lines 56-63); and an audio output (Fig. 8b, reference 83a) to the input 51a of a tuner amplifier 50 for reproducing selected music (column 6, lines 24-27).

13. Regarding Claim 4, Johnson further discloses specifying an entire selection 151, a particular album 152, a particular artist 154, a specified category 155, a particular song 212, or a list of songs 216 (column 9, lines 26-40; column 10, lines 15-23).

14. Regarding Claim 6, Johnson further discloses sequential playing of selected songs (Fig. 16, reference 216; column 10, lines 39-42).

15. Regarding Claim 7, Johnson further discloses random playing of selected songs (Fig. 16, reference 204; column 10, lines 23-34).

16. Regarding Claim 8, Johnson discloses an audio storage/reproduction system (Fig. 10) comprising: cartridge racks 60a-c that correspond to the sound source claimed and store songs (i.e., a plurality of music files) in a rack-cartridge-album-song hierarchy (column 5, lines 48-52; column 6, lines 36-42); control for random selection of an album (Fig. 13, reference 220; column 10, lines 56-63); and an audio output (Fig. 8b, reference 83a) to the input 51a of a tuner amplifier 50 for reproducing selected music (column 6, lines 24-27).

17. Claims 10, 11 and 12 are essentially similar to Claims 1, 4 and 7, respectively, and are rejected on the same grounds.

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18. Regarding Claim 14, in addition to the elements cited above apropos of Claim 1, Johnson further discloses the system utilizing software to control operation (column 9, lines 4-5).

19. Regarding Claim 15, Johnson further discloses specifying an entire selection 151, a particular album 152, a particular artist 154, a specified category 155, a particular song 212, or a list of songs 216 (column 9, lines 26-40; column 10, lines 15-23).

***Claim Rejections - 35 USC § 103***

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

21. Claims 2, 3, 5, 9, 13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Millikan et al. (US 2003/0058781 A1).

22. Regarding Claim 2, as shown above apropos of Claim 1, Johnson anticipates all elements except a folder above the album level in the hierarchical structure. Millikan discloses a file structure for a music player (Fig. 1) that places a folder A above albums (B, C) containing songs 12 in a hierarchical structure (para. 16). Millikan further discloses that such an arrangement permits flexible and convenient organization of music albums. It would have been obvious to one skilled in the art at the time of the invention to apply the folder-over-albums file structure taught by Millikan to the system taught by Johnson for the purpose of realizing the aforesaid advantages.

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23. Regarding Claim 3, Johnson further discloses control for random selection of an album (Fig. 13, reference 220; column 10, lines 56-63); and an audio output (Fig. 8b, reference 83a) to the input 51a of a tuner amplifier 50 for reproducing selected music (column 6, lines 24-27).

24. Regarding Claim 5, Johnson further discloses specifying an entire selection 151, a particular album 152, a particular artist 154, a specified category 155, a particular song 212, or a list of songs 216 (column 9, lines 26-40; column 10, lines 15-23). As such, Johnson anticipates all elements except a folder above the album level in the hierarchical structure. Millikan discloses a file structure for a music player (Fig. 1) that places a folder A above albums (B, C) containing songs 12 in a hierarchical structure (para. 16). Millikan further discloses that such an arrangement permits flexible and convenient organization of music albums. It would have been obvious to one skilled in the art at the time of the invention to apply the folder-over-albums file structure taught by Millikan to the system taught by Johnson for the purpose of realizing the aforesaid advantages.

25. Regarding Claim 9, as shown above apropos of Claim 8, Johnson anticipates all elements except a folder above the album level in the hierarchical structure. Millikan discloses a file structure for a music player (Fig. 1) that places a folder A above albums (B, C) containing songs 12 in a hierarchical structure (para. 16). Millikan further discloses that such an arrangement permits flexible and convenient organization of music albums. It would have been obvious to one skilled in the art at the time of the invention to apply the folder-over-albums file structure taught by Millikan to the system taught by Johnson for the purpose of realizing the aforesaid advantages.

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26. Regarding Claim 13, as shown above apropos of Claim 10, Johnson anticipates all elements except a folder above the album level in the hierarchical structure. Millikan discloses a file structure for a music player (Fig. 1) that places a folder A above albums (B, C) containing songs 12 in a hierarchical structure (para. 16). Millikan further discloses that such an arrangement permits flexible and convenient organization of music albums. It would have been obvious to one skilled in the art at the time of the invention to apply the folder-over-albums file structure taught by Millikan to the system taught by Johnson for the purpose of realizing the aforesaid advantages.

27. Regarding Claim 16, as shown above apropos of Claim 14, Johnson anticipates all elements except a folder above the album level in the hierarchical structure. Millikan discloses a file structure for a music player (Fig. 1) that places a folder A above albums (B, C) containing songs 12 in a hierarchical structure (para. 16). Millikan further discloses that such an arrangement permits flexible and convenient organization of music albums. It would have been obvious to one skilled in the art at the time of the invention to apply the folder-over-albums file structure taught by Millikan to the system taught by Johnson for the purpose of realizing the aforesaid advantages.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Swerdlow whose telephone number is 571-272-7531. The examiner can normally be reached on Monday through Friday between 7:30 AM and 5:00 PM.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh H. Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Daniel Swerdlow  
Primary Examiner  
Art Unit 2615

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21 June 2007